

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JUDY GRANT and U.S. POSTAL SERVICE,
POST OFFICE, Greenley, CO

*Docket No. 00-1832; Submitted on the Record;
Issued April 25, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof in establishing that she sustained a right knee condition causally related to her federal employment.

On October 29, 1999 appellant, then a 52-year-old mail carrier filed an occupational disease claim alleging that she sustained a right knee condition resulting from years of walking and stepping out of her mail truck. Appellant indicated that she first became aware of her condition in September 1998 and realized that her condition was caused or aggravated by her employment in December 1998. Appellant retired in November 1998 and received disability benefits beginning in July 1999.

Appellant submitted a report dated September 13, 1999 from Dr. Thomas Pazik, a Board-certified orthopedic surgeon and her attending physician, who indicated that she had a longstanding problem with patellar malalignment and required surgical treatment. Dr. Pazik stated that although appellant's federal position was not the direct cause of this condition, years of long walking while carrying heavy bags may have contributed to aggravation of this preexisting condition.

By letter dated December 24, 1999, the Office of Workers' Compensation Programs advised appellant that additional information was necessary in order to make a determination on her claim. In a letter received January 24, 2000, appellant stated that for 15 years, she performed work duties including heavy lifting, pushing, pulling, bending, stooping, walking and stepping in and out of vehicles. She stated that outside her federal employment, she only performed basic household and yard work. Appellant indicated that her right knee had caused pain and swelling for some time.

Appellant submitted a medical report dated August 26, 1998 from Dr. Charles Chesley, an attending physician. Dr. Chesley reported that appellant presented with an acute effusion of the right knee and that historically, she had had some intermittent right knee pain. He further stated: "About one week ago when [appellant] was stepping over the dog at home, she felt a popping sensation that was painful and has had several repeat episodes like that since and over the last two to three days has developed a rather tense swelling of the right knee. She in the past year has undergone a repeat attempt at surgical fusion."

Appellant also submitted treatment reports from Dr. Pazik dating from September 23, 1998 through August 16, 1999. In the September 23, 1998 report, he indicated that appellant returned for evaluation after she stepped over a dog at home and felt a popping sensation in her right knee. Dr. Pazik further indicated that since the accident, appellant had intermittent clicking and popping, especially while going downstairs. Other reports indicated that appellant underwent lateral release and synovectomy on her right knee on November 9, 1998 and received ongoing treatment for her condition.

By decision dated February 24, 2000, the Office denied the claim. The Office found that the medical evidence was insufficient to establish that the claimed condition was caused by employment factors.

The Board finds that appellant has failed to establish that she sustained a right knee condition causally related to her federal employment.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.² These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish a causal relationship is rationalized medical opinion

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *See Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁴

In the present case, the Office accepted the existence of various work duties appellant performed as a mail carrier for the employing establishment. The Board finds, however, that appellant did not submit sufficient medical evidence to establish that she sustained a right knee condition due to such employment factors.

The record in this case indicates that appellant's right knee injury occurred while at home, when she tripped over her dog. There is also evidence of record which discusses aggravation to this injury by work factors of appellant's federal employment in a September 13, 1999 report, in which Dr. Pazik stated that appellant's work duties of walking long distances while carrying heavy bags may have contributed to aggravation of her condition. His opinion, however, is generalized in nature and equivocal in that he only noted summarily that work factors might have aggravated appellant's symptoms. Causal relationship must be established by rationalized medical opinion evidence and Dr. Pazik's report does not constitute sufficient medical evidence demonstrating a causal connection between the accepted work factors and the claimed condition.

As none of appellant's medical reports are sufficiently rationalized to support a causal relationship between the work factors identified by appellant and her diagnosed right knee condition, the Board finds appellant has not met her burden of proof to establish an injury in the performance of duty as alleged.⁵

⁴ *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

⁵ The record indicates that appellant requested a review of the written record following the February 24, 2000 decision. It does not appear that the Office conducted a hearing or issued a subsequent decision on this matter. Further, appellant submitted evidence on appeal. The Board cannot consider evidence on appeal that was not before the Office at the time of the final decision; *see Dennis E. Maddy*, 47 ECAB 259 (1995); 20 C.F.R. § 501.2(c).

The February 24, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
April 25, 2001

Michael J. Walsh
Chairman

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member